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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,217	01/25/2001	Jorg Brakemann	BRAKEMANN	4863

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EXAMINER

ANDERSON, GERALD A

ART UNIT PAPER NUMBER

3637

DATE MAILED: 04/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/769,217

Applicant(s)

BRAKEMANN, JORG

Examiner

JERRY A ANDERSON

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 17-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

Applicant's amendment has been entered and overcomes the rejections of the previous Office Action. However, new art has come to the Examiner's attention and so after careful considered a new ground(s) of rejection follows.

#### *Specification*

The amendment filed January 25, 2001 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material, which is not supported by the original disclosure, is as follows: "the layers are separated **in end to end relationship and** from one another by score lines". Plane words have plane meaning. If the layers are separated and in end to end relationship each layer must have designated ends but the blank from which the layers are formed is continuous. To say that the layers are separated from one another by score lines is misdescriptive. Each score line does not mark the end of a layer.

As the Examiner understands the invention a body is formed from a blank that is a single length of cardboard. Layers are formed by rolling up the blank. The blank can be rolled up to form a rectangular body. The blank has been provided with score lines. Segments or portions of the blank can be defined between each adjoining pair of score lines. It is these segments that form the sides of each layer of the rectangular body.

Applicant is required to cancel the misdescriptive and new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Terms in the claims which lack proper antecedent basis include: "when the layers are rolled up" in claim 1. This problem can be overcome by inserting - - rolled up - - before or after "layers" in line 2. The phrase "several layers end-to-end disposition" is unclear. This language introduced to the claim and the specification in the applicant's amendment filed January 25, 2001 and should have been noted as new matter at that time. In the claims it is not clearly understood what is meant by the ends of the layers. Claim 1 is further misdescriptive defining the invention as a "**tubular** formed body" because tubular refers to the form of a tube that is a hollow cylinder. As shown in the Figures the invention is a rectangular body. Claim 17 is misdescriptive stating that "successive sections are securely connected to one another" because successive sections are directly connected to each other. It can be said that the body is formed by rolling up the blank and that successive segments **in successive layers** are connected to one another through form-fitting engagement.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-8, 17, 19 and 20, as presented, are rejected under 35

U.S.C. 102(b) as being clearly anticipated by Sheffer. Sheffer is cited showing a body 10 formed by rolling up a corrugated fiberboard blank divided into segments 11-17 by score lines 20. Form fitting engagement between the tongues 30 and the openings 40, 41, 50, 51 securely connect the layers. The Examiner considers corrugated cardboard to be a form of corrugated fiberboard. Sheffer recognizes that glue can be used between the layer, col. 1 line 57. The parallel direction of the flutes and score lines is not specifically addressed by Sheffer is inherent within the scope and spirit of the invention. This feature is specifically disclosed by Patterson a reference cited and thus incorporated into Shaffer.

***Allowable Subject Matter***

Claims 1 and 17 may be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action but Claims 5 and 18 would surely be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

This Office Action is **not** final.

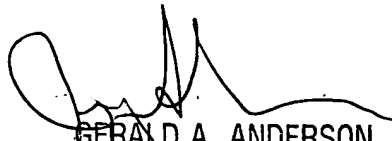
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Anderson whose telephone number is 703 038 2202. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703 308 24668. The fax phone numbers for the organization where this application or proceeding is assigned are 703 305 3597 for regular communications and 703 306 4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 2197.

Jaa  
April 2, 2003

  
GERALD A. ANDERSON  
PATENT EXAMINER